

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT FUNDING THE MONTANA COMMUNITY HERITAGE GRANT
5 PROGRAM ESTABLISHED IN [LC 169] WITH A SURCHARGE OF 6 PERCENT ON CERTAIN RENTAL
6 VEHICLES; REQUIRING THAT RENTAL VEHICLE OWNERS AND OPERATORS OBTAIN A PERMIT FROM
7 THE DEPARTMENT OF REVENUE; PROVIDING THAT THE SURCHARGE IS NOT PAYABLE ON RENTAL
8 VEHICLES PURSUANT TO A CONTRACT FOR INSURANCE; PROVIDING THAT RENTAL VEHICLE OWNER
9 AND OPERATOR KEEPS 15 PERCENT OF THE SURCHARGE FOR ADMINISTERING THE COLLECTION OF
10 THE SURCHARGE; PROVIDING FOR DISTRIBUTION OF THE REVENUE FROM THE SURCHARGE FOR
11 FUNDING HISTORICAL PURPOSES SUCH AS THE MONTANA HERITAGE PRESERVATION AND
12 DEVELOPMENT COMMISSION, LEWIS AND CLARK BICENTENNIAL COMMISSION, MONTANA
13 HISTORICAL SOCIETY, STATE HISTORICAL SITES, MAIN STREET PROGRAM, AND COMMUNITY
14 HERITAGE GRANTS; PROVIDING PENALTIES; PROVIDING FOR THE FORMAL ESTABLISHMENT OF THE
15 MAIN STREET PROGRAM IN THE DEPARTMENT OF COMMERCE; AND PROVIDING A DELAYED
16 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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20 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 8], the following definitions
21 apply:

22 (1) (a) "Gross receipts" means all receipts from sources within the state, whether in money or
23 other consideration, received from engaging in the business of renting rental vehicles.

24 (b) The term does not include the amount received for gas and insurance.

25 (2) "Rental vehicle" means a passenger vehicle that:

26 (a) is rented for a period of not more than 30 days;

27 (b) is rented without a driver;

28 (c) is designed to transport 15 or fewer passengers; and

29 (d) has a manufacturer's rated capacity of 1 ton or less.

30 (3) "Rental vehicle owner or operator" means a person who owns or leases rental vehicles and

1 who rents or offers to rent the rental vehicles.

2

3 **NEW SECTION. Section 2. Rate of rental vehicle surcharge -- reimbursement -- exception --**
4 **collection and reporting.** (1) (a) Except as provided in subsection (1)(b), there is imposed a surcharge on
5 rental vehicles. The surcharge is 6% of the rental base price, exclusive of gas and insurance, as stated in
6 the rental contract. The surcharge must be stated in the rental contract and collected in accordance with
7 the terms of the contract.

8 (b) The surcharge imposed by this section does not apply to the rental base price for rental
9 vehicles rented pursuant to a contract for insurance.

10 (2) The rental vehicle owner or operator shall report to the department, at the end of each calendar
11 quarter, the gross receipts actually collected during that quarter attributable to the rental contracts,
12 exclusive of gross receipts attributable to contracts for insurance. The report must be on a form provided
13 by the department. The report is due on or before the last day of the month following the end of the
14 calendar quarter and must be accompanied by a payment in an amount equal to 85% of the surcharge
15 required to be collected under subsection (1). The balance of the surcharge collected must be retained by
16 the rental vehicle owner or operator for administering the collection of the surcharge.

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18 **NEW SECTION. Section 3. Permit application -- place of business.** (1) Prior to engaging in the
19 business of renting vehicles, a prospective rental vehicle owner or operator shall file with the department
20 an application for a permit. If the prospective rental vehicle owner or operator will operate in more than
21 one location, an application may include multiple locations.

22 (2) Each rental vehicle owner or operator who is required to file a report under [sections 1 through
23 8] is required to file an application for a permit.

24 (3) Each application for a permit must be on a form prescribed by the department and must set
25 forth the name under which the applicant intends to transact business, the location of the applicant's place
26 or places of business, and other information that the department may require. The application must be filed
27 by the rental vehicle owner or operator if the owner or operator is a natural person, by a member or
28 partner if the owner or operator is an association or partnership, or by a person authorized to sign the
29 application if the owner or operator is a corporation.

30 (4) A rental vehicle owner or operator who fails to comply with this section is subject to a fine

1 of not less than \$50 and not more than \$100.

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3 **NEW SECTION. Section 4. Audits -- records.** (1) The department may audit the books and records
4 of a rental vehicle owner or operator to ensure that the proper amount of the surcharge imposed by
5 [section 2] has been collected. An audit may be done on the premises of the rental vehicle owner or
6 operator or at any other convenient location.

7 (2) The department may request the rental vehicle owner or operator to provide the department
8 with books, ledgers, registers, or other documents necessary to verify the correct amount of the
9 surcharge.

10 (3) The rental vehicle owner or operator shall maintain and have available for inspection by the
11 department books, ledgers, registers, or other documents showing the collection of the rental vehicle
12 surcharge for the preceding 5 years.

13 (4) Except in the case of a person who, with intent to evade the surcharge, purposely or
14 knowingly files a false or fraudulent report violating the provisions of [sections 1 through 8], the amount
15 of surcharge due under any report must be determined by the department within 5 years after the return
16 is made. After 5 years, the department is barred from revising any report or recomputing the surcharge
17 due, and a proceeding in court for the collection of the surcharge may not be instituted unless notice of
18 any additional surcharge is provided within the 5-year period.

19 (5) An application for revision may be filed with the department by a rental vehicle owner or
20 operator within 5 years from the original due date of the report.

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22 **NEW SECTION. Section 5. Penalty for failure to file or pay.** (1) A rental vehicle owner or operator
23 who fails to file the report as required by [section 2] must be assessed a penalty as provided in 15-1-216.
24 The department may waive the penalty as provided in 15-1-206.

25 (2) A rental vehicle owner or operator who fails to make payment or fails to report and make
26 payment as required by [section 2] must be assessed a penalty and interest as provided in 15-1-216. The
27 department may waive any penalty pursuant to 15-1-206.

28 (3) (a) If a rental vehicle owner or operator fails to file the report required by [section 2] or if the
29 department determines that the report understates the amount of surcharge due, the department may
30 determine the amount of the surcharge due and assess that amount against the owner or operator. The

provisions of 15-1-211 apply to any assessment by the department. The taxpayer may seek review of the assessment pursuant to 15-1-211.

(b) When a deficiency is determined and the surcharge becomes final, the department shall mail a notice and demand for payment to the rental vehicle owner or operator. The surcharge is due and payable at the expiration of 30 days after the notice and demand were mailed. Interest on any deficiency assessment must be computed as provided in 15-1-216.

NEW SECTION. Section 6. Overpayment and underpayment. (1) If the department determines that the amount of surcharge, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any surcharge, penalty, or interest then due from the rental vehicle owner or operator and the balance must be refunded to the owner or operator, to the owner's or operator's successor through reorganization, merger, or consolidation, or to the owner's or operator's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate that is charged on unpaid taxes as provided in 15-1-216 from the due date of the return or from the date of overpayment, whichever is later, to the date that the department approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during a period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the rental vehicle owner or operator to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual surcharge liability or one reasonably assumed to be imposed by [sections 1 through 8] is considered an overpayment with respect to which interest is allowable.

NEW SECTION. Section 7. Distribution. (1) The department shall distribute the proceeds of the surcharge established in [section 2] as follows:

- (a) 18% to the Montana heritage preservation and development account established in 22-3-1004;
- (b) 4% for maintenance and upkeep of the Moss mansion, Daly mansion, and original governor's mansion;
- (c) until December 31, 2007:
- (i) 3% to the Lewis and Clark bicentennial account established in 2-15-150(4) for the operations of the commission;
- (ii) 16% to the Lewis and Clark bicentennial account established in 2-15-150(4) for community grants;
- (d) 5% to the department of fish, wildlife, and parks for maintenance and development of state historical sites designated under 23-1-102;
- (e) 7% to the Montana historical society for general operations;
- (f) 3% to the department of commerce for administration of programs in the department that are funded under this section;
- (g) 16% to the department of commerce for the main street program and tourism advisory council planning; and
- (h) 28% to the community heritage grant program account for professional assistance and community heritage grants as provided in [LC 169].
- (2) For an agency or program that is funded under subsection (1) and that is terminated or otherwise discontinued, the funds that were to be distributed to the discontinued agency or program must be distributed to the Montana heritage preservation and development commission established in 22-3-1002.

NEW SECTION. Section 8. Rulemaking. The department shall adopt rules as may be necessary to implement and administer [sections 1 through 8].

NEW SECTION. Section 9. Main street program -- establishment -- purpose -- rulemaking. (1) There is a main street program in the department of commerce developed in conjunction with the main street program of the national trust for historic preservation.

(2) The purpose of the program is to:

- (a) assist communities in restoring and retaining the historic character of their downtown areas

1 and historic districts;

2 (b) stimulate business investment, assist in retaining existing small businesses, and promote new
3 businesses in those areas;

4 (c) strengthen the local tax base;

5 (d) create employment opportunities in community downtown areas and historic districts; and

6 (e) generally enhance the economic viability of downtown areas and historic districts.

7 (3) (a) The department of commerce shall adopt rules governing the operation of the main street
8 program.

9 (b) In developing the rules, the department of commerce shall consult with the national trust for
10 historic preservation, provided for in 16 U.S.C. 468, to ensure that Montana's main street program is
11 consistent with the main street program operated by the national trust for historic preservation.

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13 NEW SECTION. Section 10. Codification instruction. (1) [Sections 1 through 8] are intended to
14 be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 8].

15 (2) [Section 9] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and
16 the provisions of Title 2, chapter 15, part 18, apply to [section 9].

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18 NEW SECTION. Section 11. Effective date. [This act] is effective January 1, 2002.

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20 NEW SECTION. Section 12. Applicability -- rulemaking. (1) [This act] applies to all rental vehicles
21 rented and to motor vehicle taxes and fees paid after December 31, 2001.

22 (2) For the purpose of adopting administrative rules implementing [sections 1 through 8], the
23 department may begin the process for adoption of administrative rules, but the rules may not be effective
24 prior to January 1, 2002.

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